

**Paper for the House Committee Meeting  
on 20 May 2022**

**Legal Service Division Report on  
Professional Accountants (Amendment) Bill 2022**

**I. SUMMARY**

**1. The Bill**

The Bill seeks to amend the Professional Accountants Ordinance (Cap. 50) to:

- (a) provide for the nomination of candidates for the election of the President and Vice-Presidents of the Hong Kong Institute of Certified Public Accountants (“HKICPA”) and elected members of the Council of HKICPA (“Council”);
- (b) change the election cycle of the elected Council members; and
- (c) make related and miscellaneous amendments (including amendments to the Professional Accountants By-laws (Cap. 50A)).

**2. Public Consultation**

The Administration has collected views from major accounting professional bodies and representatives on the Council election mechanism and they generally agreed that there is a need to review and enhance the existing election mechanism of the Council. The Administration has further engaged the stakeholders including HKICPA to explain the policy considerations after formulation of the legislative proposal.

**3. Consultation with  
LegCo Panel**

The Panel on Financial Affairs was consulted on the legislative proposal on 4 April 2022 and members supported the introduction of the Bill into the Legislative Council.

**4. Conclusion**

The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. As the Bill seeks to reform the Council election mechanism, Members may consider forming a Bills Committee to study the Bill in detail.

## II. REPORT

The date of First Reading of the Bill is 18 May 2022. Members may refer to the Legislative Council (“LegCo”) Brief (File Ref.: ACCT/2/1/2C) issued by the Financial Services and the Treasury Bureau on 11 May 2022 for further details.

### Object of the Bill

2. The Bill seeks to amend the Professional Accountants Ordinance (Cap. 50) to:
- (a) provide for the nomination of candidates for the election of the President and Vice-Presidents of the Hong Kong Institute of Certified Public Accountants (“HKICPA”) and elected members of the Council of HKICPA (“Council”);
  - (b) change the election cycle of the elected Council members; and
  - (c) make related and miscellaneous amendments (including amendments to the Professional Accountants By-laws (Cap. 50A)).

### Background

3. HKICPA is established by Cap. 50 to regulate the accounting profession in Hong Kong. Under Cap. 50, the Council is the governing body of HKICPA and empowered to exercise certain regulatory powers (e.g. issuing practising certificate to certified public accountants (“CPAs”), registration of CPA firms). Under section 10(2) of Cap. 50, 14 out of 21 of the Council members are elected members.<sup>1</sup> Section 12 of Cap. 50 further provides that seven of those elected Council members are alternatively open for direct election by HKICPA members every year for a term of two years. Under the new regime established by the Financial Reporting Council (Amendment) Ordinance 2021 (Ord. No. 41 of 2021) which was published in the Gazette on 29 October 2021, the role of HKICPA as the independent regulator of the accounting profession will be transferred to the Financial Reporting Council (“FRC”), which will be renamed as the Accounting and Financial Reporting Council (“AFRC”).<sup>2</sup> HKICPA will remain the key institution keeping the standards of the profession.

4. According to paragraph 4 of the LegCo Brief, as a result of such change of role and functions of HKICPA, the Administration considered it necessary to amend

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<sup>1</sup> The other seven Council members are the Financial Secretary or his representative, the Director of Accounting Services or his representative, the immediate past President of HKICPA and four lay persons appointed by the Chief Executive.

<sup>2</sup> Under section 10 of the Financial Reporting Council (Amendment) Ordinance 2021, FRC is to be renamed as AFRC. The renaming of FRC to AFRC will come into effect on 1 October 2022 by virtue of L.N. 65 of 2022 published in the Gazette on 6 May 2022 (Members may refer to paragraphs 13 and 14 of LC Paper No. LS30/2022 for details).

the election mechanism of the Council and enhance HKICPA's administrative procedures to enable HKICPA to more effectively adjust to its professional functions as well as establish closer linkage with AFRC under the new regulatory regime of the accounting profession. The proposed amendments contained in the Bill are summarized in the ensuing paragraphs.

## **Provisions of the Bill**

### Nomination requirements for candidates for election of the President and Vice-President and elected Council members

5. Under Cap. 50A, a CPA only becomes a candidate for election as an elected Council member if the nomination of that accountant is proposed by one CPA and the proposal is seconded by another CPA (see section 2). The Bill seeks to reform the nomination threshold for Council election by raising the number of nominations to be obtained from HKICPA members by a candidate. The Bill proposes to add Schedule 1 to Cap. 50 to the effect that the following nomination requirements for candidates would apply:

- (a) an elected Council member would only become a candidate for election as President or a Vice-President of HKICPA if the nomination of the elected Council member (i) is proposed by one Council member; and (ii) the proposal is seconded by another Council member; and
- (b) a CPA would only become a candidate for election as an elected Council member if the nomination of the accountant (i) is proposed by one CPA; and (ii) the proposal is seconded by another nine CPAs and two members of the Advisory Committee to AFRC (it is proposed under the Bill that such members of the Advisory Committee must be members appointed by the Financial Secretary after consulting AFRC).

6. Under clause 12 of the Bill, the proposed new Schedule 1 (i.e. nomination requirements) may be amended by the Secretary for Financial Services and the Treasury by notice published in the Gazette. Such notice would be subsidiary legislation subject to the negative vetting procedure of LegCo.

7. Clause 5 of the Bill seeks to provide that the power of HKICPA to make by-laws providing for the procedure for the nomination and election of the President, Vice-Presidents and elected Council members would be subject to the nomination requirements provided in the proposed new Schedule 1.

### Election cycle of the elected Council members

8. The Bill seeks to reform the election cycle of Council election and achieve better continuity of the Council by the following proposed measures:

- (a) instead of conducting Council election twice every year, an election of elected Council members would be held every other calendar year at an annual general meeting of HKICPA (“election AGM”) (proposed section 13(1));
- (b) all elected Council members would retire from office immediately before the conclusion of the first election AGM held after the members are elected (proposed section 12(1)); and
- (c) elected Council members who have served as Vice-Presidents for one full term (“eligible Vice-President”)<sup>3</sup>, upon fulfilment of the nomination requirements for election as elected Council members, would be deemed to have been elected as members of the new term of the Council (proposed section 13(3)).

### Transitional arrangements

9. Clause 10 of the Bill seeks to provide for certain transitional arrangements to cater for the coming into operation of enacted Ordinance. The proposed arrangements provide, among others, that the first election of elected Council members after the enacted Ordinance comes into operation (i.e. 1 November 2022 under clause 1(2) of the Bill) would be held at the annual general meeting of HKICPA held in 2023 (“first general election”), and that the term of office of the elected Council members as at the beginning of 1 November 2022 would be extended until immediately before the conclusion of the first general election.

### Miscellaneous amendments

10. The Bill seeks to enhance the administrative procedures of HKICPA by amending Cap. 50A to (among others):

- (a) enable HKICPA to hold general meetings physically or by electronic means, or both (clauses 21 and 23);
- (b) provide for the adjournment and postponement of the general meetings of HKICPA in certain circumstances (clause 25);
- (c) lengthen the period within which (i) relevant nomination paper and notice must be lodged with the Registrar appointed under section 21 of Cap. 50 (clause 16) and (ii) the notice calling the general meeting of HKICPA must be issued by the Registrar (clauses 20 and 22); and

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<sup>3</sup> According to paragraph 15 of the LegCo Brief, the arrangement for eligible Vice-Presidents to be deemed to have been elected is to address the concerns from the profession about the risk of a total change of Council membership potentially arising from the election of all 14 elected Council members en bloc every two years.

- (d) make related and consequential amendments with regard to nomination requirements stated in paragraph 5 above (clauses 16 and 19).

## **Commencement**

- 11. The Bill, if passed, would come into operation on 1 November 2022.

## **Public Consultation**

12. According to paragraph 23 of the LegCo Brief, the Administration has collected views from major accounting professional bodies and representatives on the Council election mechanism from January to March 2022. The stakeholders generally agreed that there is a need to review and enhance the existing election mechanism of the Council. The Administration has further engaged the stakeholders including HKICPA to explain the policy considerations after formulation of the legislative proposal.

## **Consultation with LegCo Panel**

13. As advised by the Clerk to the Panel on Financial Affairs (“Panel”), the Administration briefed the Panel on 4 April 2022 on the legislative proposals to amend the election mechanism of the Council and enhance HKICPA’s administrative procedures. Members supported the introduction of the Bill into LegCo and discussed various issues, including details of the proposed new election mechanism, consultation with stakeholders on the proposals, and funding arrangements of HKICPA under the new regulatory regime of the accounting profession.

## **Conclusion**

14. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. As the Bill seeks to reform the Council election mechanism, Members may consider forming a Bills Committee to study the Bill in detail.

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